[Andrew, John A.]
M376 (2)

ACTS

AND

RESOLVES

PASSED BY THE

General Court of Massachusetts,

IN THE YEAR

1865,

TOGETHER WITH

THE CONSTITUTION, THE MESSAGES OF THE GOVERNOR, LIST OF THE CIVIL GOVERNMENT, CHANGES OF NAMES OF PERSONS,

ETC., ETC., ETC.

PUBLISHED BY THE
SECRETARY OF THE COMMONWEALTH.

BOSTON:
WRIGHT & POTTER, STATE PRINTERS,
No. 4 Spring Lane.
1865.

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http://www.archive.org/details/messageofgovjohn00mass

Will not the impartial mind of the historian, applying judicial tests to events and men, not yet, (in their immediate presence,) within our power calmly to apply, declare this occasion, which now thrills and exalts every true American and every lover of human liberty, to have been, under the Great Providence of the Infinite Majesty of the Universe, one of the signal examples and illustrations of genius, intelligence, manhood, endurance and of military virtue?

In the midst of a great national rejoicing, we are called again to mourn the loss to the country and their kindred of, we know not how many of our most gallant and worthy sons. Their names, their memory and their deeds will last while the best actions of men have a record on earth. And the precious sacrifice of heroic lives will find their great reward in the gratitude of mankind and the benediction of God.

The people of Massachusetts, faithful from the first, will be faithful to the last. She has poured out like water her treasure, her tears and her blood. Her sons have fallen on nearly every field of these four years of war. But her people share to-day, with those of all loyal States, with all loyal hearts, with the friends of human freedom, and the supporters of human rights, all over the world, the glory of a consummate victory.

Senators and Gentlemen of the House:

I extend to your honorable body, to each of its members, my cordial congratulations, my sympathy with every emotion of public joy or of private grief this event may awaken, and I pronounce the desire of the Executive Department to unite with the Legislature in any expression of gratitude to Lieutenant General Grant, his officers and men, for the immortal service rendered by them to their country, which your wisdom may suggest.

[To the Senate and the House of Representatives, April 17.]

Since the last adjournment of the General Court of Massachusetts, the people of the United States have been overtaken by a great and enduring sorrow. In the midst of the exultations of recent and repeated victory, in the midst of the highest hopes, of the most auspicious omens, in the hour of universal joy, the nation passed at once, by an inscrutable and mysterious Providence, into the Valley of the Shadow of Death. Assembled while the cloud is yet thick upon our eyes, and the hearts of men are oppressed by the sense of a strange dismay, it has become my mournful duty to record, by formal and official announcement to the legislative

department of the Commonwealth, this calamitous and distressing event.

ABRAHAM LINCOLN, President of the United States, is no more. He departed this life at the city of Washington, on Saturday, the 15th day of the present month of April, A. D. 1865, at twenty-two minutes past seven o'clock in the morning.

On Friday, he was possessed of all the faculties of his mind and body, in the active performance of the functions of his great office, and devoted himself throughout the day with cheerful and hopeful courage, and with his wonted, vigorous power and patient assiduity, to the duties it required of him. In the evening, surrounded by his family, in a place of public resort and amusement, and in the presence of a crowded audience, gathered partly to greet him as the President of the Union, and in happy recognition of the triumphant victories just achieved over the rebel army in Virginia, (which had resulted in a rout, closely followed by its surrender,)—before the very eyes of the people of whom he was the elect and honored Chief Magistrate, he fell beneath the sudden, unwarned and unsuspected assault of an assassin, whose deed of blood has hardly a parallel for its combination of audacity and wickedness, in the annals of crime. A bullet shot from a fire-arm penetrated his brain. He fell senseless and bleeding, with a wound, the mortal nature of which was immediately apparent; and was borne from the scene only to linger a few hours unconscious of suffering, and then to die. The people of this continent rose from their slumbers on the morning of Saturday, to read the announcement by telegraph, which brought to their homes the dreadful intelligence of the murderous assault, which was scarcely read before the terrible tragedy closed, with the announcement soon flashed along the wires, that the assassin's work was complete, and that the MAN on whom the people hung with fonder hope and confidence than had ever been exercised within the memory of the generation to which we belong,—the Great Man, the Good President, the fortunate Head of the Nation, the Peaceful Hero in the councils and work of War, had died, the victim of an enemy to his country and mankind, adding martyrdom itself to his other and scarcely less emphatic claims to human veneration, gratitude and love.

In my capacity of a citizen I was a supporter of this eminent and now historical personage, for the Presidency of the United States, on the occasion of his first, and also of his second election. I assisted in his first nomination in the

month of May, 1860, and, as a representative of this Commonwealth, was on the committee who visited him at his home to convey to him the formal invitation to become a candidate for the suffrages of those citizens whose general views on public affairs he was supposed best to represent. During the more than four years since his first inauguration as President, it has been my duty, and my great honor, to participate in bringing to the support and defence of the National Government, under his Presidential administration, the powerful resources of patriotic will, of loyal hearts, of means, of arms and of men, contributed by Massachusetts to the establishment of the rights of the Nation, and the liberties of the People. Brought by these means into relations with President Lincoln, personal not less than official, which could not fail to disclose the character, and reveal the man, I desire on this grave occasion, to record my sincere testitimony to the unaffected simplicity of his manly purpose, to the constancy with which he devoted himself to his duty, to the grand fidelity with which he subordinated himself to his country, to the clearness, robustness and sagacity of his understanding, to his sincere love of truth, his undeviating progress in its faithful pursuit, and to the confidence which he could not fail to inspire, in the singular integrity of his virtues and the conspicuously judicial quality of his intellect.

He had the rare gift of discerning and setting aside whatever is extraneous and accidental, and of simplifying an inquiry or an argument, by just discriminations. The purpose of his mind waited for the instruction of his deliberate judgment; and he was never ashamed to hesitate, until he was sure it was intelligently formed. Not greatly gifted in what is called the intuition of reason, he was nevertheless of so honest an intellect that, by the processes of methodical reasoning, he was often led so directly to his result, that he occasionally seemed to rise into that peculiar sphere which we assign to those who by original constitution are natural leaders among men. Not by nature a leader, neither was he by nature a follower; and by force of his rare union and balance of certain qualities, both intellectual and moral, he was enabled to rise to the dignity of master of his own position, in a place exacting and difficult, almost beyond the precedents of history. Educated wholly as a civilian, his fame will be forever associated with his administration of public affairs in a civil war, unexampled in its proportions, and conducted on his own side with such success as to command his own re-election by the free will of a free people.

Perhaps little that he spoke or wrote will pass into literature, yet few men have ever written or spoken with greater effect or to better purpose in appealing over the passions of the hour, to the sober judgment of men, face to face with their combined duties and interests; and, very few there have been who knew so well as he how to reach the understanding of plain and honest men who compose the intelligent masses of the American people.

Possessed of a will of unusual firmness and tenacity, his heart was placable, humane and tender. He exerted powers the most extensive and various, stretching into that undefined and dangerous region of administrative jurisprudence, where the rights and duties of the military Commander-in-chief limit and merge into themselves the functions of the civil magistrate, and even of the judicial tribunal. And yet, if we should concede to his enemies all that disappointed animosity and defeated disloyalty have been able to allege against him, we should still be enabled to challenge all human history to produce the name of a ruler more just, unselfish or unresentful. Cheerful, patient and without egotism, he regarded and treated himself as the servant of the people, using his powers only for their cause, using no more than the cause seemed clearly to demand, and using them alike without passion and without perturbation.

It were premature for us to assert how, or how far, during the four years of his administration, he *led* this American People. The unfolding of events in the history we are yet to enact, will alone determine the limits of such influence. It is enough for his immortal glory that he faithfully *represented* this People, their confidence in democratic government, their constancy in the hour of adversity, and their magnanimity in the hour of triumph.

Of that narrow and bigoted conceit of intelligence which affects to measure truth by the standard of its own conceptions, he had none. Nor did the argument of apparent and superficial consistency, so often the bugbear of meaner minds, weigh down for an instant, in the scales of his serene and conscientious adjudications of duty and verity, the imperative demands of any doctrine or any method however newly discovered.

Coming to the Presidency, preoccupied by the traditional theories and opinions of the political school in which he was educated, he devoted himself with a purpose, single and exclusive, to the practical interpretation of events, to the study of those lessons taught by the experience through which the country was called to pass; and learning, in com-

mon with a majority of his countrymen, in the strifes and agonies of the rebellion, by the lurid glare of the fires of treason and of civil war, how to accommodate opinion to the altered relations of States, interests, and sections of the people, he marched, side by side with the advancing hosts of the best and most discerning, in the direction where Divine Providence pointed the way.

Comparing his declarations of purpose and of inclination, with the great actions of his career, we recognize how that career was shaped by external, more than by internal forces. Until long after his inauguration, he never proposed nor counted upon war. He proposed only to hold, occupy and possess the places and the property which were within the exclusive jurisdiction of the United States. And yet he waged to a successful issue a civil war the most tremendous which history records. Nor had he ever proposed, or inclined to interfere with Slavery in the States. He proposed only to check its spread and suppress its existence in places within the exclusive jurisdiction of the Federal Union. And yet he proclaimed liberty to three millions of American slaves, and prepared the way for universal emancipation.

Without disparagement, then, of his loftiness of motive and fulness of achievement, and without detraction from the measure of his glory, may we not recognize in his career a Direction Supreme above the devices or conceptions of man, and seeing thus how a Divine Hand has led us through these paths of trial, yield confidingly to its guidance in all future years.

Standing, as we do, by the open grave of ABRAHAM LINCOLN, we seem to have taken now a new departure in our history. The cannon which fulminated the thunders of rebellion against the walls of Fort Sumter were the signal-guns of a revolution which,—turned back upon itself by the glorious uprising of a free people,—has advanced, on its swelling tide, the *Cause* which the Rebellion was intended to destroy. Thus far, the moral defeat of treason has been exemplary and overwhelming. The vigor and persistency of the People, their energy in the greatest exigencies of a nation, while the tremendous and dreadful behests of war summoned them to duty, have been fully vindicated.

We had outlived the weary period of delays and military discouragement; through many disappointments, and out of many disasters, we had risen to the loftiest and sunniest heights of assured, decisive, and overwhelming victory in the field of arms. Four years, to a single day, had intervened while this work of the American People was going on, when

upon the anniversary of the attack on Sumter, the Flag of the Union, borne back with pomp and pageant, was restored, with becoming ceremony, to its citadel, by the same hands which had been compelled by superior force to strike it in token of surrender. ABRAHAM LINCOLN had been spared and sustained through all these weary months and years, to witness the majestic triumphs, the conquering marches of our resistless armies, to hear the last wail of disloyal discontent in the loyal States, to receive the united congratulations of the acclaiming millions of his countrymen, to reap a sweeter and richer reward of deliverance and victory than had ever been enjoyed by any ruler of the sons of men. His career closed at a moment when its dramatic unity was complete, and when his departure from life on earth was the apotheosis, the translation, by which, defended against all the shocks and mishaps of Time, he passed on to Immortality.

> "Besides, this Duncan
> Hath borne his faculties so meek, hath been
> So clear in his great office, that his virtues
> Will plead like angels, trumpet-tongued, against
> The deep damnation of his taking off;
> And pity, like a naked new-born babe,
> Striding the blast, or heaven's cherubim horsed
> Upon the sightless couriers of the air,
> Shall blow the horrid deed in every eye,
> That tears shall drown the wind."

But, to us who survive, to the country for whose honor and deliverance he laid down his life, there remain the task and the opportunity now more clearly revealed.

The barbarism which originated treason and rebellion against a government free, united and paternal; which hunted and hanged political dissenters; starved to death its prisoners of war; made war as well through robbers and incendiaries, as by organized armies; rewarded perjuries; and desecrated the remains of the fallen brave; the barbarism which made human slavery the God of its idolatry, has passed on to the final demonstration of its character in the logical development of its history, until it has crowned its own infamy, and challenged the burning hatred and contempt of all human nature, by adding this assassination, this parricide, to the blistering record of its crimes. From this hour may the men of Massachusetts rise up to a new and loftier resolution. With the fall of Sumter we dedicated ourselves to the overthrow of treason, to the suppression of rebellion, and the restoration of the honor and power of the Union. In the appeal to Force, Treason and Rebellion have

been conquered. As an organized military power the confederacy of traitors has practically ceased to be. But, there now remains to us yet another and perhaps a greater labor. On the ruins of that social despotism, over the fallen altars of that barbarism in whose despairing death-throe was planned and executed this dastardly assassination, by the side of the bleeding form of all that was mortal in that magnanimous Father of his People, let us pronounce the vows of a new obedience.

> "Powers depart,
> Possessions vanish, and opinions change,
> And passions hold a fluctuating seat:
> But by the storms of circumstance unshaken,
> And subject neither to eclipse nor wane,
> DUTY *exists.*"

Order, Law, Freedom, and true Civilization, must rise into life all over the territory blasted by Despotism, Barbarism and Treason. The schemes of sentimental politicians, who neither learn nor forget, whose ideas of constructive statesmanship are only imitative as are the mechanical ideas of the bee or the beaver, the plans of men who would re-build on the sand, for the sake of adhering to a precedent, must be utterly, promptly and forever rejected.

Let the Government and the people resolve to be brave, faithful, impartial and just. With the blessing of God, let us determine to have a country, the *home* of Liberty, and Civilization. Let us deserve success, and we shall surmount every obstacle; we shall survive delays; we shall conquer defeat; we shall win a peaceful victory for the great ages of the future, and for the cause of mankind; we shall requite these years of toil and war. The blood of all this noble army of the martyrs,—from the soldiers of Massachusetts who fell in Baltimore, to Abraham Lincoln, the President, who has mingled his own with theirs,—the blood of this noble army of martyrs shall be, as of old, the Seed of the Church.

[To the House, April 17.]

I have the honor to transmit to the General Court a communication received by me from His Excellency the Governor of Maryland, inclosing a copy of an Act of the General Assembly of that State to provide for a National Cemetery for our soldiers who fell on the battle-field of Antietam, and inviting the coöperation of this Commonwealth.

[To the Senate, May 15.]

I am compelled to return unapproved to the Senate, in which it originated, a Bill entitled "An Act increasing the Penalties for Second Convictions of certain Offences." The late period of the session at which this Bill is presented to me, prevents me from stating at length my objections thereto, but they may be briefly stated as follows:—

I cannot approve the first section of this Bill, for the reason that it contemplates second convictions of defendants, of the "*same offence*," and sentences thereupon, whereas the Fifth Article of the Amendment of the Constitution of the United States provides that no person "shall be subject for the *same offence* to be twice put in jeopardy." This is probably an accidental form of expression, used in the Bill, instead of the expression found in the General Statutes, when the same idea is intended, viz.: "*like offence*."

I respectfully object to the second section of the Bill, that it would give jurisdiction to police magistrates and trial justices, of offences made punishable by two years' imprisonment in the house of correction, which is entirely contrary to the policy of the law of Massachusetts, of which there are many illustrations, particularly those contained in the one hundred and twentieth chapter of the General Statutes, where, with a single exception (in which excepted case a penalty of one year's imprisonment may be inflicted,) it is provided that the maximum punishment within the authority of such tribunals to inflict, shall not exceed six months' imprisonment. That excepted case is in section forty-one, where, after giving jurisdiction of several classes of offences, the law goes on to say: "in all which cases the punishment for a first offence shall be by a fine not exceeding fifteen dollars, or imprisonment in the jail not exceeding six months; and upon a second conviction of the like offence committed after a former conviction before a police court or a justice of the peace, the punishment shall be by fine not exceeding twenty dollars, or imprisonment in the jail not exceeding one year."

I find, upon examination, that the erroneous form of expression in the first section, already alluded to, occurs in chapter one hundred and sixty-five, section thirty-five, of the General Statutes, and I respectfully suggest the propriety of its correction. It seems to me that a statutory provision couched in such language must be simply nugatory and ineffectual. If the attention of the court is called thereto, the same words used in the Constitution of the United States, and in the statute, must be construed to have the same

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